

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION III 1650 Arch Street Philadelphia, Pennsylvania 19103-2029

JUL 1 1 2018

Mr. D. Lee Currey, Director Science Services Administration Maryland Department of the Environment 1800 Washington Boulevard Baltimore, Maryland 21230

Dear Mr. Currey:

The Maryland Department of the Environment (MDE) adopted amendments to the state's Water Quality Standards (WQS) *Title 26 Department of the Environment Subtitle 08 Water Pollution 26.08.02 Water Quality* (Code of Maryland Regulations (COMAR) Title 26). The MDE published the Notice of Final Action to amend its WQS on March 30, 2018, and submitted these revisions to the U.S. Environmental Protection Agency (EPA) as required under the Clean Water Act (CWA) Section 303(c)(2)(A), 33 U.S.C. §1313(c)(2)(A) and 40 CFR Part 131.20(c). The Maryland Office of the Attorney General certified in a letter dated May 7, 2018 that these revisions were duly adopted in accordance with Maryland's laws. EPA received this package on May 10, 2018.

Based on the review of the MDE submission and supporting documentation, EPA finds that all of the new or revised provisions are consistent with the CWA and EPA's implementation regulations at 40 CFR 131. The enclosures to this letter list the specific provisions EPA approved and the rationale for the approval.

Along with the revisions to the WQS in COMAR 26.08.02, MDE also adopted revisions to the regulations in COMAR 26.08.09. COMAR 26.08.09 sets the regulations for the management of public beaches. The revisions to COMAR 26.08.09 do not establish or change any water quality standards (i.e. the revisions don't establish uses or criteria). Thus, those regulations are not subject to EPA's review under the CWA 303. States may adopt action values for beach notification for the purpose of beach management, but the assessment of those waters will be based on the approved WQS established in COMAR 26.08.2

If you have any questions, please do not hesitate to contact me or have your staff contact Mrs. Evelyn S. MacKnight, Associate Director, Office of Standards, Assessment and Total Maximum Daily Loads at 214-814-5717 or Mark A. Barath, Environmental Scientist, Region III Water Protection Division at 215-814-2759.

Sincerely,

Dominique Lueckenhoff, Acting Director

Water Protection Division

Enclosures

cc: Ben Grumbles, Secretary, MDE

ENVIRONMENTAL PROTECTION AGENCY, REGION III STATE OF MARYLAND WATER QUALITY STANDARDS APPROVAL OF 2018 NEW AND REVISED ITEMS

				
Section Approved	Description of Revision			EPA Rationale
COMAR 26.08.02.03-1 Toxic Substance Water Quality Criteria for Surfaced Water. Fresh Water, Estuarine, and Salt Water Boundaries. (3), (t) Chesapeake Bay Proper (Sub-Basin 02- 13-99) boundary is a line connecting Booby Point (39.284206 north latitude, -76.381400 west longitude) with Handy's Point (39.291944 north latitude, -76.181388 west longitude).	Fresh Water, Estuarine and Salt Water Boundary (t) Chesapeake Bay Proper (Sub-Basin 02-13-99) boundary was revised to correct an error in Latitude/longitude coordinates.			This amendment incorporates correction to the boundary for applying fresh versus marine/estuarine toxic water quality criteria for Chesapeake Bay Proper. This corrects the boundary where two different sets of toxic criteria are applied
26.08.02.03-3 Water Quality Criteria Specific to Designated Uses. A.	Replaces previous bacteria Indicator table:			Criterion consistent with EPA's recommendations published in the 2012 Recreational Water Quality
Criteria for Class I Waters — Water Contact	Table 1. Bacteria Indicator Criteria Magnitude*			Criteria (820-F-12-058)
Recreation and Protection of Nontidal Warmwater Aquatic Life. (1) Bacteriological. (a)	Indictor	Geometric Mean	Statistical Threshold Value	
Table 1. Bacteria Indicator Criteria Magnitudes	Enterococci (fresh or marine)- culturable	35	130	
	E. Coli (fresh)-culturable 126 410			
	* Counts po	er 100 millilit	ers	

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Section Approved	Description of Revision	EPA Rationale				
26.08.02.03-3 Water Quality Criteria Specific to Designated Uses. A. Criteria for Class I Waters — Water Contact Recreation and Protection of Nontidal Warmwater Aquatic Life. (1) Bacteriological. (b)	(b) The geometric mean of samples over a 90 day period shall not exceed the steady state geometric mean values for the given indicator.	EPA has determined that this is consistent with the recommendation that the GM not be exceeded in any 90-day interval and the STV not to be exceeded more than 10% of the time in the same 90-day interval assessed for the GM. Criterion addition is consistent with EPA's recommendations published in the 2012 Recreational Water Quality Criteria (820-F-12-058)				
26.08.02.03-3 Water Quality Criteria Specific to Designated Uses. A. Criteria for Class I Waters — Water Contact Recreation and Protection of Nontidal Warmwater Aquatic Life. (1) Bacteriological. (c)	Statistical Threshold Value (STV) duration and frequency condition (c) 10 percent of samples taken over a 90 day period shall not exceed the statistical threshold value.	MDE expresses its STV as '10 percent of samples taken over a 90-day period shall not exceed the statistical threshold value.' The EPA has determined that this Criterion is consistent with the EPA's recommendations published in the 2012 Recreational Water Quality Criteria (820-F-12-058) that the STV not be exceed more than 10 percent of the time.				
COMAR 26.08.02.08 Stream Segment Designation. B. Sub- Basin 02-12-02: Lower Susquehanna: (4) Class III-P: (r) Rock Run and all tributaries	Rock Run and all tributaries reclassified from Class III to Class III-P requiring move of stream segment from Class III to Class III-P designation section.	This waterbody is located above drinking water intake. The revision adds public water supply designated use.				
COMAR 26.08.02.08 Stream Segment Designation. K. Sub- Basin 02-13-09: Patapsco River Area: (4) Class III- P: (o) Roaring Run (Carroll County) and all tributaries	Roaring Run (Carroll County) and all tributaries reclassified from Class III to Class III-P requiring move of stream segment from Class III to Class III-P designation section.	This waterbody is located above drinking water intake. The revision adds public water supply designated use.				

Section Approved	Description of Revision	EPA Rationale
COMAR 26.08.02.08 Stream Segment Designation. K. Sub- Basin 02-14-02: Washington Metropolitan Area: (4) Class III-P: (b) Piscataway Creek Tidal Fresh (PISTF): Designated Uses Present in Segment: Migratory Spawning and Nursery Use: February 1 to May 31, inclusive Shallow Water Submerged Aquatic Vegetation Use: April 1 to October 30, inclusive. Application depth: 2.0 meters, NGZ Absent Open Water Fish and Shellfish Use: January 1 to December 31, inclusive. Shellfish Harvest: See §K(2)(c) of this regulation	Piscataway Creek Tidal Fresh (PISTF) was moved in the Stream Segment Designation to reflect the actual watershed area it is located.	The description of the designated uses and extent of the Piscataway Creek Tidal Fresh (PISTF) segment was improperly located in COMAR 26.08.02.08 Section N under the Lower Potomac River Area subbasin 02-14-01. This action is a correction of a location error. All designated uses remain the same.
COMAR 26.08.02.04-1 Antidegradation Policy Implementation Procedures. O. List of Tier II Waters.	Removal of ten waterbodies as Tier II waters based on reevaluation of placement under COMAR 26.08.02.04-1. D.(2).(b). Biological assessment data indicate water quality is not within 20 percent of the maximum attainable value of the index of biological integrity. See Enclosure 3 for details on each waterbody Removal of four waterbodies as Tier	The state is removing waterbodies under the Tier II classification of its antidegradation policy. These removals are based on errors in baseline IBI scores. Eight of these resulted from errors associated from IBI miscalculation with two others from vetted listings being reversed.
Antidegradation Policy Implementation Procedures. O. List of Tier II Waters.	II waters based on reevaluation of placement under COMAR 26.08.02.04-1. D.(2).(b). Biological assessment data indicate water quality is not within 20 percent of the maximum attainable value of the index of biological integrity. See Enclosure 3 for details on each waterbody	The state is removing waterbodies under the Tier II classification of its antidegradation policy. These removals are based on errors in baseline IBI scores. Corrected GPS coordinates relocated baseline station out of waterbodies resulting in lower IBI values.

Section Approved	Description of Revision	EPA Rationale
COMAR 26.08.02.04-1 Antidegradation Policy Implementation Procedures. O. List of Tier II Waters.	Removal of four waterbodies as Tier II waters based on reevaluation of placement under COMAR 26.08.02.04-1 D.(2)(b). Biological assessment data indicate water quality is not within 20 percent of the maximum attainable value of the index of biological integrity. See Enclosure 3 for details on each waterbody	The state is removing waterbodies under the Tier II classification of its antidegradation policy. These removals are based on errors in identification of segment which resulted in double counting.
COMAR 26.08.02.04-1 Antidegradation Policy Implementation Procedures. O. List of Tier II Waters.	Removal of one waterbody as Tier II waters based on reevaluation of placement under COMAR 26.08.02.04-1 D.(2)(b). Biological assessment data indicate water quality is not within 20 percent of the maximum attainable value of the index of biological integrity. See Enclosure 3 for list of waterbodies	The state is removing waterbody under the Tier II classification of its antidegradation policy. This removal is based on errors in baseline IBI scores.
COMAR 26.08.02.04-1 Antidegradation Policy Implementation Procedures. O. List of Tier II Waters.	Addition of twenty-nine waterbodies as Tier II waters based on achievement under COMAR 26.08.02.04-1 D.(2)(b). Biological assessment data indicate water quality is within 20 percent of the maximum attainable value of the index of biological integrity.	The state is listing additional waterbodies under the Tier II classification of its antidegradation policy. Four of these waterbodies are reclassified under new name with previous erroneous name being delisted.
COMAR 26.08.02.08 Stream Segment Designation: B. Sub- Basin 02-12-02: Lower Susquehanna River Area. Designated Use Class and Waterbody. (4) Class III-P: (r) Rock Run and all tributaries (Cecil County)	Rock Run and all tributaries (Cecil County) reclassified from Class III to Class III-P requiring move of stream segment from Class III to Class III-P designation section. Some minor index wordsmithing for clarification this sub-basin due to reclassification of waterbody from Class III to III-P.	This waterbody is located above drinking water intake requiring reclassification of designated use to reflect a more protective use.
COMAR 26.08.02.08 Stream Segment Designation: K. Sub- Basin 02-13-09: Patapsco River Area. Designated Use Class and Waterbody. (4) Class III-P: (o) Roaring Run and all tributaries (Carroll County)	Roaring Run and all tributaries (Carroll County) reclassified from Class III to Class III-P requiring move of stream segment from Class III to Class III-P designation section. Some minor index wordsmithing for clarification this sub-basin. Due to reclassification of waterbody from Class III to III-P.	This waterbody is located above drinking water intake. The revision adds public water supply designated use.

Section Approved	Description of Revision	EPA Rationale
COMAR 26.08.02.08 Stream Segment Designation: S. Sub- Basin 05-02-02: Youghiogheny River Area: (3) Class III: (g) Bucks Run and all tributaries.	Bucks Run and all tributaries reclassified from Class I to Class III requiring move of stream segment from Class I to Class III designation section. Some minor index wordsmithing for clarification.	Redesignation of Bucks Run and all tributaries as Class III as the result of discovery of appropriate temperature and a self-sustaining brook trout population. Class III uses include growth and propagation of self-sustaining trout population. Class III waters are subject to more stringent criteria than Class I waters.

EPA is not taking action on the following revisions to Maryland's water quality standards regulations as they are not considered a change to water quality standards (i.e., designated uses, criteria or antidegradation provisions). EPA has reviewed these revisions and have concluded that do not change the desired condition or level of protection of surface waters in the state, and are thus not subject to EPA approval under CWA Section 303.

Section Revised	Description of Revision	EPA Rationale for not deeming this revision substantive
26.08.02.03-3 Water Quality Criteria Specific to Designated Uses. A. Criteria for Class I Waters — Water Contact Recreation and Protection of Nontidal Warmwater Aquatic Life. (1) Bacteriological. (d) When a sanitary survey and an epidemiological study approved by the Department discloses no significant health hazard, the criteria in Table 1 do not apply	The replacement/deletions of the previous Table 1 footnotes resulted in a redo of the index for this existing footnote from (g) to (d)	This is a nonsubstantive revision that does not result in a new or revised water quality standard.
COMAR 26.08.02.04-1 Antidegradation Policy Implementation Procedures. O. List of Tier II Waters.	Five waterbodies have correction to reach latitudes and/or longitudes	This is a nonsubstantive revision that does not result in a new or revised water quality standard.

Section Revised	Description of Revision	EPA Rationale for not deeming this revision substantive
COMAR 26.08.02.08	The State added text (bold)to provide	This is a nonsubstantive revision
Stream Segment	clarification to the tables that describe	that does not result in a new or
Designation To: (1) All	Use/Class Classification. Description	revised water quality standard.
geographic coordinates	of how the physical reach of a	, ,
provided within this	waterbody is described has been	
regulation are	expanded. Additional detail is	
expressed in decimal	presented on determining Class I	
degrees latitude and	waters.	
longitude using the		
North American	· ·	
Datum of 1983. In this		
Regulation,		
Maryland's waters are		
organized by sub-	9 /	
basin. For most Class		
I, I-P, III, III-P, IV, or		
IV-P waters, the limits		
indicate the most		
downstream boundary		
point or line for the		
segment. In some	V	
cases, an upstream	V	
point and a		
downstream point are	*	
provided to describe		
those uses that may		
apply only to a limited	*	
segment of a water		
body. In tidal areas,		
the segments are	*	
defined by polygons		
defined by three or		
more points as numbered and		
expressed in		
narrative format in	*	
column four and		
defined by latitude		
and longitude point		
locations in columns		
two and tree. Any		
waterbody not		
specifically listed in		
the table is a Class I		
water.		
774.01.		

Section Revised	Description of Revision	EPA Rationale for not deeming this revision substantive
COMAR 26.08.02.08 R. S-Basin 02-14-10: North Branch Potomac River Area and Sub- Basin 05-02-02 Youghiogheny River Area	Per COMAR 26.08.01.01 B. Definition (95-1) Use Class, revisions made in fourteen instances where 'Use' were not replaced by 'Class' in 2013 triennial revisions	As noted in EPA 2014 Approval letter on MDE changes to WQS, 'Class' replacing 'Use' throughout COMAR 26.08. does not change what is covered under each designated use, and it does not change the designated use of any water body.
COMAR 26.08.02.08 N. Sub-Basin 02-14- 01: Lower Potomac River Area (2) Class II (a) Lower Potomac Tidal Fresh(POTTF): Designated Uses present in Segment: Shellfish Harvest: See § N(2)(g)	Relocation of Piscataway Creek Tidal Fresh (PISTF) in this sub- basin required index revision of Shellfish Harvesting from § N(2)(h) to § N(2)(g)	This is a nonsubstantive revision that does not result in a new or revised water quality standard.
COMAR 26.08.02.08 N. Sub-Basin 02-14- 01: Lower Potomac River Area (2) Class II: (f)) Mattawoman Creek Tidal Fresh (MATTF)	Relocation of Piscataway Creek Tidal Fresh (PISTF) in this sub- basin required index revision of required index revision of Mattawoman Creek Tidal Fresh (MATTF) from (g) to (f)	This is a nonsubstantive revision that does not result in a new or revised water quality standard.

The following list contains the 19 waterbodies (with locational information) which were moved from Tier II to Tier I as the result of not meeting conditions in COMAR 26.08.04-1. D.(3) (b) Biological assessment data indicate water quality is within 20 percent of the maximum attainable value of the index of biological integrity.

Tier II Stream Name	County	Reason for Proposed Removal	Summary of Rationale for Removal
Aydelotte Branch 1	Wicomico	Data omission and IBI correction	Data (from station UPPC-114-R-2001) was incorrectly omitted from the original baseline assessment based on previous IBI score. When properly included with other baseline data from UPPC-107-R-2001, the average BIBI does not meet Tier II threshold of 4.00.
Bens Run 1 (also sometimes referred to as Dogwood Run)	Baltimore	Data omission – average does not meet threshold	Data (low BIBI from PATL-209-X-2010) was incorrectly omitted from original assessment. When included with other baseline data from PATL-209-X-2009, PATL-209-X-2010, and PATL-209-X-2011, the average BIBI for this segment does not meet T2 threshold of 4.00.
Choptank River UT 2	Caroline	Locational Issue	After additional review, the location of station UPCK-132-R-2000 could not be confirmed. Could be on 3 different stream segments. Follow-up sampling visit is planned for 2018.
Deer Creek 1	Baltimore	Locational Issue	Baseline sampling station BA-P-320-304-97 was originally plotted on an incorrect segment (i.e. Deer Creek 1). It was properly moved to the correct stream segment (it was sampled on Harris Mill Creek). The Deer Creek 1 name is proposed to be retired. This results in no net change in the number of T2 segments. Harris Mill Creek 1 is now in COMAR as Tier II.
Fifteenmile Creek 2	Allegany	Corrected IBIs	Mathematical error in IBI calculation was discovered which lowered the benthic IBI scores for two different sampling events used for baseline Tier II evaluation. The corrected BIBIs cause the average BIBI score to be below the Tier II threshold (4.00).
Indian Run 1	Baltimore	Corrected IBI	Mathematical error in IBI calculation discovered. Corrected BIBI is below the Tier II threshold (4.00).
Lyons Creek 2	Anne Arundel, Calvert	Locational Issue	Baseline station CA-S-197-302-97 moved to the correct segment on Lyons Creek and thus the "Lyons Creek 2" name was retired. The new segment name is Lyons Creek 3. This did not result in a net change in the number of T2 segments.
Mudlick Hollow 1	Allegany	Data omission and IBI correction	Data from station AL-A-419-106-95 was incorrectly omitted from the original baseline assessment based on previous IBI score. When properly included with other baseline data from AL-A-524-211-95, the average BIBI does not meet T2 threshold of 4.00.

Tier II Stream Name	County	Reason for Proposed Removal	Summary of Rationale for Removal	
Murley Branch 1	Allegany	Corrected IBI	Mathematical error in IBI calculation discovered. Corrected BIBI is below the Tier II threshold (4.00).	
North Branch Patapsco River 2	Carroll	Locational Issue	Baseline station CR-P-409-320-96 was plotted on the incorrect segment (on North Branch Patapsco River downstream of confluence with Deep Run). When applied to the correct segme which is the North Branch Patapsco River upstream of Deep Ru confluence, it's IBI scores must be averaged with CR-P-077-309 95. When averaged with this other station, this segment (the North Branch Patapsco River segment upstream of the confluence with Deep Run) does not meet the T2 threshold of 4.00.	
Persimmo n Creek 1	Saint Mary's	Corrected IBI	Mathematical error in IBI calculation discovered. Corrected BIBI is below the Tier II threshold (4.00).	
Saint Marys River UT	Saint Mary's	Corrected IBI	Mathematical error in IBI calculation discovered. Corrected BIBI is below the Tier II threshold (4.00).	
Saint Marys River UT 2	Saint Mary's	Name Change	Mathematical error in IBI calculation discovered. Reassessment showed that it still met Tier II threshold. However, it was renamed to Fisherman Creek 1 to reflect actual stream name.	
Savage River 3	Garrett	Corrected IBI	Mathematical error in IBI calculation discovered. Corrected BIBI is below the Tier II threshold (4.00).	
Town Creek 2	Allegany	Corrected IBI	Mathematical error in IBI calculation discovered. Corrected BIBI is below the Tier II threshold (4.00).	
Western Run 1	Baltimore	Corrected IBI	Mathematical error in IBI calculation discovered. Corrected BIBI is below the Tier II threshold (4.00).	
Browns Branch 1	Queen Anne's	Name Change	This stream segment is improperly named as Browns Branch and instead should be named Southeast Creek UT 2. The Triennial Review proposes to remove the incorrect name (i.e. Browns Branch 1) and replace with Southeast Creek UT 2. This does not result in any net loss of Tier II designation.	
Browns Branch 2	Queen Anne's	Name Change	This stream segment is improperly named as Browns Branch and instead should be named Southeast Creek UT 3. The Triennial Review proposes to remove the incorrect name (i.e. Browns Branch 2) and replace it with Southeast Creek UT 3. This does not result in any net loss of Tier II designation.	

Tier II Stream Name	County	Reason for Proposed Removal	Summary of Rationale for Removal	
Southeast Creek UT 1	Queen Anne's	Name Change	This stream segment is improperly named as Southeast Creek UT 1 and instead should be named Browns Branch 3. The Triennial Review proposes to remove the incorrect name (i.e. Southeast Creek UT 1) and replace it with Browns Branch 3. This does not result in any net loss of Tier II designation	

The following list contains the 29 waterbodies (with locational information) which were reclassified as Tier II high quality waters as the result of meeting conditions in COMAR 26.08.04-1. D.(3) (b) Biological assessment data indicate water quality is within 20 percent of the maximum attainable value of the index of biological integrity.

Stream Segment	County	From LAT	From LONG	To LAT	To LONG
Big Run 1	Garrett	39.58348	-79.17124	39.55629	-79.15005
Browns Branch 3	Queen Anne's	39.15968	-75.92076	39.16360	-75.95177
Fifteenmile Creek 6	Allegany	39.65610	-78.40009	39.65591	-78.39701
Gravel Run 1	Queen Anne's	39.03535	-76.03710	39.05027	-76.06391
Harris Mill Creek 1	Baltimore	39.71528	-76.62412	39.71307	-76.59763
Island Creek 1	Queen Anne's	39.08896	-76.05355	39.11732	-76.06863
Laurel Run UT 1	Garrett	39.47897	-79.15120	39.47772	-79.11977
Little Deer Creek UT 1	Harford	39.62878	-76.48475	39.66009	-76.48109
Little Gunpowder Falls 4	Baltimore, Harford	39.47306	-76.40243	39.46108	-76.39091
Lyons Creek 3	Anne Arundel, Calvert	38.76472	-76.65905	38.75572	-76.67206
Marbury Run 1	Charles	38.56780	-77.14674	38.57919	-77.15872
Middle Fork Crabtree Creek 3	Garrett	39.53507	-79.18800	39.51565	-79.16892
Mill Run 4 Garrett Co	Garrett	39.71883	-79.30088	39.71553	-79.34541
Mill Run UT 2 Garrett Co	Garrett	39.71594	-79.27141	39.71849	-79.30071
Murphy Run 1	Baltimore, Carroll	39.62639	-76.83087	39.62004	-76.81855
N Branch Patapsco River UT 2	Baltimore	39.49571	-76.83795	39.49463	-76.86357
Norwich Creek 2	Queen Anne's, Talbot	38.92547	-75.97541	38.91998	-75.96930
Norwich Creek 3	Queen Anne's	38.94203	-75.99741	38.92547	-75.97541
Potomac River UT	Charles	38.48546	-77.23682	38.47495	-77.25927
Reeder Run 3	Charles	38.50269	-77.18977	38.50940	-77.20911
Saint Clements Creek 2	Saint Mary's	38.35866	-76.72707	38.34859	-76.73061
Southeast Creek UT 2	Queen Anne's	39.11759	-75.95646	39.11650	-75.96562
Southeast Creek UT 3	Queen Anne's	39.11651	-75.96563	39.13035	-75.97788
Spring Lick Run 1	Garrett	39.50365	-79.20005	39.49073	-79.17532
Toms Spring Run 1	Garrett	39.51704	-79.20115	39.51565	-79.16893
Tuckahoe River 2	Caroline, Queen Anne's	38.98128	-75.93486	38.97278	-75.93518
Wolf Den Branch 2	Charles, Prince George's	38.67283	-76.80444	38.63902	-76.81987
Wolf Den Run 1	Garrett	39.39655	-79.21193	39.38905	-79.19443
Wolf Den Run UT	Garrett	39.41259	-79.22063	39.39655	-79.21193